

Mailing Date: MAR 02 2011

COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATIVE LAW JUDGE  
FOR  
PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1295
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W04-408107
v.	:	
	:	LID - 57689
CHRISTOPHER J STREIFF	:	
T/A CJ'S HIGHWAY INN	:	
3108 RTE 8	:	
ALLISON PARK PA 15101-3838	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-18220	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

**BLCE COUNSEL:** Michael Nickles, Esquire

**LICENSEE COUNSEL:** No Appearance

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 28, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Christopher J. Streiff, t/a CJ's Highway Inn, License Number R-AP-SS-18220 (hereinafter Licensee).

The citation charges Licensee with violation of Section 15.62(a) of the Liquor Control Board Regulations [40 Pa. Code §15.62(a)], in that on February 22, March 7, 23, 24, 26, April 1, 8, 18, 20, 27, 28, May 1, 10, 11 and 14, 2010, Licensee, by his servants, agents or employees, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

An administrative hearing was conducted on January 25, 2011, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Michael Nickles, Esquire. Licensee did not appear personally or through legal counsel.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on February 16, 2010, and completed its investigation on May 14, 2010. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated June 7, 2010, which was sent by certified mail and received by Licensee on June 17, 2010. (Exhibit C-2)
3. The citation was issued on June 28, 2010, and was sent by certified mail and returned as unclaimed. The citation was also mailed to Christopher J. Streiff, 607 Bank Street, Carnegie, PA 15106, which was returned as undeliverable. (Exhibits C-3, C-4)
4. The notice relative to the date, time and place of the evidentiary hearing was mailed to Licensee's premises on December 10, 2010 by first class mail as well as certified mail.
5. The aforementioned certified mailing of the notice of hearing was returned as undeliverable. The notice of hearing was also mailed to Christopher J. Streiff, 607 Bank Street, Carnegie, PA 15106 by first class mail, which was not returned.
6. In the Adjudication and Order at Citation Number 09-1274C dated November 6, 2009, Licensee was ordered to pay a fine in the amount of \$1,250.00 and was further ordered to become R.A.M.P. certified. As the result of Licensee's failure to pay the \$1,250.00 fine, a Supplemental Order dated February 5, 2010, was issued suspending Licensee's restaurant liquor license for a period of one day commencing at 7:00 a.m. on Monday, February 22, 2010, and ending at 7:00 a.m. on Tuesday, February 23, 2010, and continuing thereafter until the fine was paid. Licensee failed to pay this fine which resulted in the issuance of a Second Supplemental Order dated April 28, 2010, wherein Licensee's restaurant liquor license was revoked effective May 24, 2010. (N.T. 9, 11)
7. On Monday, February 22, 2010, at 6:55 p.m., a Liquor Enforcement officer arrived at Licensee's premises and noted a large hole in the right side of the building rendering the interior wall plainly visible from outside. The front door was covered with a large piece of plywood with a large sign in front on the building which stated "Building for Rent." The premises was closed and void of any patrons. However, there was no suspension placard posted anywhere visible from outside the premises. (N.T. 15-16)

8. On March 7, 2010 at 4:35 p.m., March 23, at 11:05 p.m., March 24, at 7:35 p.m., March 26, at 1:40 a.m. April 1, at 11:21 p.m., April 8, at 10:32 p.m., April 18, at 7:45 p.m., April 20, at 11:55 a.m., April 27, at 7:55 p.m., April 28, at 4:00 p.m., May 1, at 12:33 a.m., May 10, at 7:57 p.m., May 11, at noon and May 14, 2010, at 6:00 p.m., four additional Liquor Enforcement officers made individual visits to Licensee's premises and found plywood covering the entrances and determined that most of the bar equipment and furniture had been removed. During each of these numerous visits to Licensee's premises, none of the Enforcement officers observed a suspension placard visible from anywhere outside the premises. (N.T. 9-22)

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4-471] have been satisfied.

2. On February 22, March 7, 23, 24, 26, April 1, 8, 18, 20, 27, 28, May 1, 10, 11 and 14, 2010, Licensee, by his servants, agents or employees, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension, in violation of Section 15.62(a) of the Liquor Control Board Regulations.

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court concludes that the Bureau has established the violation as charged by a clear preponderance of the evidence. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982).

PRIOR RECORD:

Licensee has been licensed since May 2, 2007, and has had two prior violations, to wit:

Citation No. 09-1274C. Fine \$1,250.00 and R.A.M.P. training mandated. Fine not paid and license suspended one day and thereafter until fine paid. Fine still not paid and licensed revoked.

1. Sales to a minor.  
May 5, 2009.

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Citation No. 10-0625. License revoked.

1. Failed to comply with the order of the Administrative Law Judge mandating R.A.M.P. training.  
February 5 through March 4, 2010.
2. Failed to return the license to the Board after the licensed establishment had not been in operation for a period of 15 consecutive days.  
December 20, 2009.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

The record discloses that Licensee's restaurant liquor license has twice been revoked at Citation Nos. 09-1274C and 10-0625.

ORDER:

THEREFORE, IT IS HEREBY ORDERED that License Number R-AP-SS-18220 issued to Christopher J. Streiff, t/a CJ's Highway Inn, be REVOKED at 7:00 a.m. on Monday, April 11, 2011. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is CANCELLED.

Since the license is inactive, there is no license to return; therefore, the Bureau of Licensing is hereby directed to mark their records that this license has been REVOKED. Licensee's right to renew this license is hereby CANCELLED.

Jurisdiction is retained to ensure compliance with this Order.

Dated this 16<sup>TH</sup> day of February, 2011.



Roderick Frisk, J.

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CHRISTOPHER J. STREIFF

Citation Number 10-1295

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.